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 6

7 **UNITED STATES DISTRICT COURT**
 8 **NORTHERN DISTRICT OF CALIFORNIA**

9
 10 SHARON DE EDWARDS, M.D., FACOG,
 INC., a corporation, and SHARON DE
 11 EDWARDS, M.D., as President and officer
 of the corporation.

12 Plaintiffs,

13 v.

14 INTERNAL REVENUE SERVICE,
 UNITED STATES GOVERNMENT
 15 DEPARTMENT OF THE TREASURY,
 KATHY JAKABCIN, JOSEPH SMITH,
 16 Revenue Officers, and Does I through 50,
 Inclusive.

17 Defendants,

18 Case No.: C07-3102 MEJ

19 FIRST AMENDED COMPLAINT FOR
 20 REFUND OF TAXES, PENALTIES,
 AND INTEREST, FAILURE TO
 RELEASE TAX LIENS, UNLAWFUL
 COLLECTION ACTIVITY, MAKING
 FALSE AND FRAUDULENT
 STATEMENTS, DISCRIMINATION
 AND FOR A PRELIMINARY AND
 PERMANENT INJUNCTION AND
 REQUEST FOR AN ACCOUNTING
 AND FOR ATTORNEY FEES

21 **[26 USC 7422, 7432, & 7433, 18 USC
 100, 42 USC 1981 AND 26 USC 7426]**

22 DEMAND FOR JURY TRIAL

23 **STATEMENT OF FACTS**

24 1. Plaintiffs are, SHARON DE EDWARDS, M.D., FACOG, INC., EIN 68-0377910,
 a corporation (“THE CORPORATION”), organized under the laws of the state of California, and
 SHARON DE EDWARDS, M.D, (“DE EDWARDS”) an individual and the President and officer
 of THE CORPORATION.

25 2. Defendant, Internal Revenue Service (“IRS”) is an agent of the Federal
 26 Government of the United States.

1 3. Defendant, United States Government Department of the Treasury, is a
2 department of the Federal Government of the United States.

3 4. Defendants, Kathy Jakabcin (“JAKABCIN”) and Joseph Smith (“SMITH”), are
4 Revenue Agent of the IRS.

5 5. Plaintiffs bring this action after defendants persuaded counsel for THE
6 CORPORATION to dismiss DE EDWARDS’ lawsuit in exchange for defendants submitting their
7 report showing the application of funds received via levies on behalf of THE CORPORATION,
8 for payment of corporate employers’ tax liability. After counsel for THE CORPORATION
9 dismissed the lawsuit, defendants refused to provide the report and refused to refund the
10 overpayment of THE CORPORATION’s employers’ 941 tax liability for the period 3/31/1996
11 through 9/31/2007, and 940 tax liability for the period 12/31/1996 through 12/31/2006, and
12 instead began collection activity against Plaintiffs, by submitting fraudulent and false, legally
13 unenforceable liens and levies against their assets and property, all in an effort to avoid refunding
14 the overpayment made by THE CORPORATION.

15 6. Upon information and belief, F. Anthony Edwards, Esq., as general counsel and
16 Secretary of THE CORPORATION, voluntarily, orally agreed, pursuant to compromise, to
17 cooperate with the IRS, to have the IRS by way of levies, collect payments owed to THE
18 CORPORATION by its debtors. These corporate funds and assets were to be used to pay THE
19 CORPORATIONS’s 941 and 940 taxes that were due, with the IRS providing acknowledgment of
20 receipt and of application of the corporate funds received. The agreement was made on or about
21 April 2002, with F. Anthony Edwards, Esq., turning over to the IRS the complete listing of all the
22 health plans owing THE CORPORATION.

23 7. Thereafter, the IRS began collecting and receiving THE CORPORATION’s funds
24 and assets, with the IRS beginning to receive large payments by early 2003. However, by mid-
25 year 2003, it became evident that the IRS was collecting THE CORPORATION’s funds and asset,
26 but that said funds were not being applied solely to the tax liability of THE CORPORATION.

1 8. Consequently, F. Anthony Edwards, Esq., wrote the IRS several letters demanding
 2 an accounting of THE CORPORATION's funds and assets. When the IRS refused to comply, a
 3 complaint was filed for declaratory relief on behalf of Sharon de Edwards, M.D., as an individual
 4 against the IRS. This complaint, entitled de Edwards v. IRS, Case No. 04-05025 - PJH, was
 5 dismissed on December 30, 2005, for lack of subject matter jurisdiction.

6 9. During the litigation of the above-referenced complaint, in paragraph 8 above,
 7 and prior to dismissal, the IRS responded to the Plaintiff's Request for Admission, Set One. In
 8 pertinent part, the IRS admitted the following:

9 a. "A review of the Internal Revenue Service transcript of the tax accounts related to
 10 the corporation known as Sharon De Edwards, M.D., Inc., Tax Identification
 11 Number 68-0377910, reflects that the total amount of funds collected pursuant to
 12 levies issued by the Internal Revenue Service and applied to the outstanding
 employment tax liabilities of said corporation is \$123,979.15. The transcript
 reflect collection and application of the levied funds from July 22, 2002, through
 June 20, 2005. The levied funds were applied as follows:

<u>Type of Tax</u>	<u>Quarter Ending</u>	<u>Amount Applied</u>
941	December 31, 1998	\$ 3,765.92
941	September 30, 1999	12,138.64
941	December 31, 1999	17,237.67
941	March 31, 2000	790.58
941	September 30, 2000	4,317.03
941	December 31, 2000	8,420.35
941	March 31, 2001	11,881.85
941	June 30, 2001	11,853.80
941	September 30, 2001	7,398.59
941	December 31, 2001	6,861.30
941	March 31, 2002	9,360.48
941	June 30, 2002	6,640.40
941	September 30, 2002	8,495.31

1	941	December 31, 2002	6,614.07
2	940	December 31, 2002	156.53
3	941	March 31, 2003	7,463.02
4	941	June 30, 2003	415.81
5	940	December 30, 2003	<u>167.87</u>
6		Total:	\$123,979.15"

7. 10. The IRS also admitted that:

8. 9. 10. “[A] review of the Internal Revenue Service transcripts with respect to the tax
9. 10. accounts of the sole proprietorship (emphasis supplied) of Sharon De Edwards,
10. M.D., FACOG, Tax Identification Number 68-016482 (emphasis supplied),
reflects that no funds were collected through levy that were applied to the
outstanding tax liabilities of said sole proprietorship.”

11. 11. The IRS also admitted that:

12. 13. 14. 15. “[A] review of the Internal Revenue service transcripts with respect the tax
13. 14. 15. account of Sharon De Edwards individually, Tax Identification Number xxx-xx-
3232, reflects that a total amount of **\$941.05** was collected through Internal
Revenue Service levies and applied to the outstanding personal Federal Income
tax liability of Sharon De Edwards for the taxable year ending December 31,
1998.

16. 17. 18. 19. In further responding . . . [A] review of the Internal Revenue Service transcripts
17. 18. 19. with respect to the personal Federal income tax accounts of Fernando Anthony
18. 19. Edwards and Sharon De Edwards, Tax Identification Numbers xxx-xx-8603 and
xxx-xx-3232, respectively, reflects that a total amount of \$29,100.95 was
collected through levies issued by the Internal Revenue Service and applied to
these individuals’ outstanding joint personal Federal income tax liabilities. The
transcripts reflect collection and application of levied funds from November 8,
1990, through May 6, 1996. The levied funds were applied as follows:

20. Type of Tax	21. Taxable Year	22. Amount Applied
1040	1984	\$12,760.76
1040	1994	<u>16,340.19</u>
23.	Total:	\$29,100.95"

24. 12. On July 1, 2005, at the time that the IRS made these admissions, \$212,399.80 had
25. been paid to the IRS pursuant to the oral agreement to provide the IRS with THE
26. CORPORATION’s list of accounts receivables, to allow the IRS to issue levies on the corporate
27.

1 debtors, to force them to pay the IRS for THE CORPORATION's tax liabilities, and to provide
 2 the corporate officer with a report detailing the receipt and application of payments received.
 3 Attached hereto as Exhibit "A" is a true and correct copy of the IRS' admissions. This exhibit
 4 consist of pages A1 through A10.

5 13. Notwithstanding the agreement, the IRS, by its own admission, misapplied
 6 \$30,042.00 of THE CORPORATION's funds and assets by applying \$12,760.76 of said funds to
 7 an alleged personal income tax liability from the year 1984, that was statutorily barred by the
 8 three-year statute of limitation and the six-year statute of limitation, and by applying \$16,340.19
 9 to an alleged personal income tax liability from the year 1994, that was also statutorily barred by
 10 the three-year statute of limitation and the ten-year statute of limitation. In addition, on July 1,
 11 2005, the IRS also admitted it could not account for the remainder of the \$58,378.65 in payments
 12 made on behalf of THE CORPORATION, and made no attempt to explain the whereabouts of
 13 these missing corporate funds to either THE CORPORATION, the corporation's counsel, or the
 14 taxpayer.

15 14. The IRS also admitted that:

16 "[T]he following returns for Sharon De Edwards' personal income tax under
 17 Taxpayer Identification Number xxx-xx-3232, were not filed and, where
 indicated, the Internal Revenue Service filed a substitute for return pursuant to 26
 18 U.S.C. § 6020(b):

<u>Type of Return</u>	<u>Taxable Year</u>	<u>6020(b) Substitute Filed?</u>
1040	1999	Yes - filed July 2, 2001"

19 15. The IRS further admitted that:

20 "[T]he following returns with respect to the personal Federal income tax liabilities
 21 of Fernando Anthony Edwards and Sharon De Edwards, Tax Identification
 22 Numbers x5x-xx-8603 and xxx-xx-3232, respectively, were not filed and, where
 23 indicated, the Internal Revenue Service filed a substitute for return pursuant to 26
 24 U.S.C. § 6020(b):

<u>Type of Return</u>	<u>Taxable Year</u>	<u>6020(b) Substitute Filed?</u>
1040	1999	Yes - filed May 2, 2005"

25 16. Both Fernando Anthony Edwards, Tax Identification Number x6x-xx-8603 and

1 DE EDWARDS, Tax Identification Number xxx-xx-3232, timely filed their joint personal
2 Federal income tax return for taxable year 1999. This return had \$0.00 tax liability. Attached
3 hereto as Exhibit "B" to this complaint is a true and correct copy of said return. This exhibit
4 consist of pages B1 through B2.

5 17. Upon information and belief, the IRS negligently and/or knowingly, filed these
6 two personal tax return for taxable year 1999, substantially inflating the alleged tax liability due
7 thereon, and applying THE CORPORATION's funds and assets to the payment of these
8 wrongfully filed, inflated, personal income tax liability. The IRS filed two separate returns for the
9 same taxable year with substantially inflated tax liabilities, on the same household and on the
10 same taxpayers, by filing one of their returns for DE EDWARDS as a sole filer, and also by
11 filing a joint return on DE EDWARDS and Fernando Anthony Edwards, by changing Fernando's
12 Tax Identification Number, so as to make it appear that the joint personal return for year 1999,
13 that had been timely filed by the taxpayers, was never filed.

14 18. The mis-application of THE CORPORATION's funds to the two alleged personal
15 income tax on the same household, for the same year, one with one of the taxpayer as filing
16 solely and another with the taxpayer as filing jointly, was done to maliciously increase the
17 income tax liability of DE EDWARDS, and to maliciously increase the employers' tax liability
18 of THE CORPORATION, since the payment of the fraudulent income tax assigned to DE
19 EDWARDS is in fact a forced dividend, which further increased her personal tax liability, while
20 at the same time depriving THE CORPORATION of it funds so that it cannot pay its employers'
21 taxes, incurring additional tax liability, penalty and interest.

22 19. At the time that the IRS responded to the Request for Admissions, THE
23 CORPORATION's debtors had made payments to the IRS on THE CORPORATION's behalf, in
24 the amount of \$212,399.80, of this amount, \$58,378.65 remained unaccounted for after the IRS
25 applied the funds as heretofore described in their admission dated July 1, 2005. As of the date of
26 this complaint, THE CORPORATION's debtors have forwarded and the IRS has received
27

1 \$352,226.30 pursuant to a 100% levy that the IRS is maintaining on THE CORPORATION'S
2 accounts receivables. In addition, there is approximately \$40,000.00 in the pipeline, i.e.,
3 corporate funds levied upon, but which has not yet been confirmed as received by the IRS. Yet to
4 date, the IRS has not provided any accounting for the corporate funds it received. Attached hereto
5 as Exhibit "C" is a true and correct copy of THE CORPORATION'S spreadsheet, showing
6 exhibits 1 through 824, totaling \$352,226.30 as payments made to the IRS, as of September 30,
7 2007. This exhibit consists of pages C1 through C17.

8 20. Upon receiving the responses to the Request for Admission as hereinbefore stated,
9 counsel for the corporation wrote several letters to the IRS demanding an accounting and a
10 refund of THE CORPORATION's funds. After receiving no response from the IRS, counsel for
11 THE CORPORATION filed the instant complaint for a refund and for damages against the IRS
12 and defendant JAKABCIN, the Revenue Officer with whom counsel made the agreement for the
13 corporate levies.

14 21. During the civil proceedings on the complaint for a refund and for damages,
15 counsel for the IRS proposed that the complaint be dismissed, without prejudice, to allow the
16 IRS Office of Appeals to comply with THE CORPORATION's request by providing a complete,
17 detailed report of all payments received via levies, on behalf of THE CORPORATION. In
18 agreeing to have the complaint dismissed without prejudice, the Honorable Judge Alsup, ordered
19 Counsel for THE CORPORATION to re-file the complaint (if necessary) by July 13, 2007.
20 Attached hereto as Exhibit "D" is a true and correct copy of Judge Alsup's order. Based upon the
21 stipulation, counsel for THE CORPORATION agreed and the complaint was dismissed without
22 prejudice.

23 22. Thereafter, despite repeated assurances, and repeated extensions of time, the IRS
24 Office of Appeals failed to provide the report. In the abundance of caution, counsel for THE
25 CORPORATION, re-filed the complaint on or about June 11, 2007. However, he did not serve
26 the complaint so as to allow the IRS Office of Appeal, more time to comply with providing the
27

1 report.

2 23. Instead of providing the report, defendant SMITH, Revenue Officer, in the
3 Collection Department of the IRS, and other DOE defendants began to engage in a retaliatory
4 pattern of behavior to use the powers of the IRS to intimidate, harass, and cajole DE
5 EDWARDS from pursuing the refund on behalf of THE CORPORATION, causing harm to the
6 taxpayer and THE CORPORATION, by:

7 a. Imposing continuous levies the corporate assets 100%, even though SMITH knew
8 that THE CORPORATION had paid all of its tax liabilities. The unlawful levies
9 is causing severe economic hardship to THE CORPORATION and the taxpayer.

10 THE CORPORATION cannot pay its operational expenses nor the employers'
11 taxes becoming due. Consequently, THE CORPORATION is incurring additional
12 tax liabilities, interest and penalties. THE CORPORATION also cannot pay the
13 taxpayer her wages for work she performed for the corporation. Consequently she
14 has experienced severe economic hardship and cannot pay her living expense or
15 her portion of the mortgage, causing the family home to be in danger of
16 foreclosure.

17 b. Submitting false and fraudulent statements under color of authority as a Revenue
18 Agent of the United States, by:

19 i. submitted 1040 lien for year 1993, to the taxpayers lender, even though the lien
20 had already been paid. This action, together with the conduct described below,
21 sabotaged the loan, causing the lender to withdraw. This loan was being made to
22 payoff or reduce alleged personal income tax liabilities that were pending.

23 Attached hereto as Exhibit "E" are true and correct copies of the check, dated July
24 13, 2006, in the amount of \$64,052.85, payable to the IRS for tax liability on
25 alleged personal income taxes for taxable years 1992 and 1993, in the amount of
26 12,841.38 and \$11,092.08, respectively, plus interest and penalties, and copy of

1 Notice of Federal Tax Liens for personal income tax for taxable year 1993,
2 recorded February 5, 2007, and for taxable year 1993. This lien is recorded again,
3 for the same amount of \$11,092.08, that had already been paid.. This exhibit
4 consist of pages E1 through E3.

5 c. Creating and submitted a Notice of Federal Tax Lien for alleged personal income
6 tax for taxable year 1998 in the amount of \$117421.25, to fraudulently increase
7 DE EDWARDS personal income tax liability, even though he knew that the 1998
8 personal tax return had been timely file, with a tax liability of \$10,246.00.
9 Attached hereto as Exhibit "F" are true and correct copies of the Notice of Lien
10 and the 1040 return for 1998. This exhibit consist of pages F1 through F3.

11 d. Creating and submitting two Notices of Federal Tax for alleged personal income
12 tax for taxable year 1999, to fraudulently increase DE EDWARDS personal
13 income tax liability, even though SMITH knew that the 1999 personal income tax
14 had been timely filed, with a tax liability of \$0.00. Attached hereto as Exhibit "B"
15 are true and correct copies of filings of personal income tax return for taxable year
16 1999.

17 e. Filing multiple Notices of Federal Tax Lien in violation of the three-year, six-year
18 and ten-year statutes of limitation. Attached hereto as Exhibit "G" are true and
19 correct copies of filings of Notice of Federal Tax Lien. This exhibit consist of
20 pages G1 through G7.

21 f. Submitting multiply levies on 100% of THE CORPORATION's account
22 receivable, knowing that all levies inclusive of interest and penalties had been
23 paid and that the amounts in the levy statement were false, and knowing that the
24 Office of Appeals of the IRS had not yet released the accounting report, to show
25 the payments and application of THE CORPORATION's funds. Attached hereto
26 as Exhibit "H" is a true and correct copy of the a levy which is identical to other

1 levies sent to 100% of THE CORPORATION's debtors..

2 g. Failing to account for, apply or refund, the 32,162.66 in payments made by THE
3 CORPORATION that were unresolved as of July 1, 2005. Attached hereto as
4 Exhibit "I" is a true and correct copy of IRS Form 2747, showing the unresolved
5 corporate payments. This exhibit consists of pages I1 through I2.

6 24. On or about September 17, 2007, this Court ordered Plaintiff to show cause why
7 the case should not be dismissed for failure to prosecute, and Plaintiff having shown cause, the
8 Court on September 27, 2007 ordered Plaintiff to serve the complaint no later than October 27,
9 2007.

10 25. Plaintiffs have exhausted their administrative remedies. The IRS Office of
11 Appeal has failed to provide the report accounting for the payments received on behalf of THE
12 CORPORATION, after being granted numerous extensions. Instead, SMITH has responded by
13 issuing multiple liens that are time-barred by the 3-year assessment statute of limitation for
14 Notices of Deficiency, the 6-year collection statute of limitation (for claims arising before 1990),
15 and the 10-year collection statute of limitation (for claims arising after 1990), or that should
16 never have been filed at all.

17 26. The claims asserted by Plaintiff arise under Title 18 USC 1001, 26 USC 7432, 26
18 USC 7423, 26 USC 7422, 26 USC 7426, and 42 USC 1981, with this Court having subject
19 matter jurisdiction pursuant to 28 USC 1331, 1333, 1334(a)(1), and 28 USC 1291, with this court
20 having concurrent jurisdiction on the state action. This First Amended Complaint now follows.

21 WHEREFORE, Plaintiffs pray for Judgment against defendants, and each of them, as
22 hereinafter set forth.

23 COUNT I
24 DEMAND FOR REFUND - 26 USC 7422

25 Plaintiff, THE CORPORATION in its capacity, repeats and realleges Paragraphs 1-26
26 inclusive, in their entirety as if fully stated herein.

27 27. As of the date of this First Amended Complaint, Defendants have wrongfully

1 levied Plaintiff's account receivable in the amount of \$352,226.30, with approximately
 2 \$40,000.00 in the pipeline, i.e., corporate funds levied upon but not yet confirmed as received by
 3 the IRS, for a total of \$392,226.30.

4 28. As of the date of this First Amended Complaint THE CORPORATION has filed
 5 all quarters of its employers' tax return. The total employers tax liability for the life of THE
 6 CORPORATION is \$189,101.50, with no more than \$104,005.83 in penalty and interest, for a
 7 total owed of \$293,107.33. Thus, the amount to be refunded to THE CORPORATION is
 8 \$99,118.97, plus statutory interest of twelve (12%) percent. Attached hereto as Exhibit "J" are
 9 true and correct copies of each quarterly 941 tax return filed by THE CORPORATION, showing
 10 a running total of \$189,101.50, as of June 30, 2007. This exhibit consist of pages J1 through J46.

11 29. In assessing and collecting levies against THE CORPORATION's account
 12 receivables, defendant failed and then refused to provide corporate counsel with an accounting
 13 of the funds received, even though defendants persuaded counsel for THE CORPORATION not
 14 to pursue legal action, so as to allow defendants to submit their report showing the allocation of
 15 the payments received via levies, on behalf of THE CORPORATION. THE CORPORATION at
 16 its own costs and expense, obtained canceled checks and Explanation of Benefits vouchers on
 17 each payments that defendants collected from the health plans, which THE CORPORATIONS
 18 must account for as revenues. THE CORPORATION uses its revenues to pay to operational
 19 expenses and to pay its officers' salaries and wages. When it did not receive its revenues, THE
 20 CORPORATION was unable to pay it officers' wages and salaries, with its officers sustaining
 21 severe financial and economic hardship, which has now jeopardizes their home.

22 30. As a result of defendants unlawful conduct, THE CORPORATION has suffered
 23 tremendous financial losses and economic hardship, loss of business property, the potential loss
 24 of corporate officer's home, and damage to THE CORPORATION's business good will and
 25 business reputation.

26 WHEREFORE, Plaintiff prays for Judgment against defendants, and each of them, as
 27

hereinafter set forth.

COUNT II
FAILURE TO RELEASE TAX LIEN - VIOLATION OF 26 USC 7432

Plaintiff, DE EDWARDS, in her individual capacity, repeats and realleges Paragraphs 1-30 inclusive, in their entirety as if fully stated herein.

31. Defendants, and each of them, filed liens against Plaintiff's home, for alleged failure to file and/or pay personal income taxes for taxable year, 1992, 1993, 1998 and 1999.

32. As pertaining to the liens for taxable year 1992 and 1993, the amount of \$12,841.38 and \$11,092.08, respectively, were properly assessed, and the liens, inclusive of interest and penalties were paid in full by escrow check no. 00023239, in the amount of \$64,052.85, dated July 31, 2006.

33. Notwithstanding the payments of the above-referenced liens in paragraph 32, SMITH re-filed the lien for taxable year 1993 in the amount of \$11,092.08 and submitted it to DE EDWARDS lender, sabotaging her equity loan. SMITH then refused to remove the lien even when corporate counsel forwarded copy of the cancelled check, payable to the IRS.

34. Defendants also issued and filed Notice of Federal Tax Lien, recorded August 3, 2006, in the amount of \$117,421.25, for alleged personal income tax for taxable year 1998, in the amount of \$105,021.51, and for section 6672 civil penalties for all quarters for year 2002, totaling \$123,99.74. Defendant SMITH knew that this lien was false when he had it issued. Other DOE defendants were also aware of its falsity. Notwithstanding their knowledge of its falsity, this lien was also submitted to DE EDWARDS' lender, sabotaging her equity loan.

35. Plaintiff, DE EDWARDS, had timely filed a joint personal income tax for taxable year 1998, with a tax liability of \$10,246.00. Defendants should have paid this tax liability from the levies on Plaintiff's bank account, for which they have also not accounted for. Attached hereto as Exhibit "F" are true and correct copies of the fraudulent lien and the filed personal tax return.

36. As it pertains to the section 6672 civil penalties for all quarters for year 2002,

1 these penalties were first assessed on July 14, 2004, with the lien being filed for the first time on
2 August 03, 2006, more than ten (10) years after the date of assessment. This lien is statutorily
3 barred and legally unenforceable, yet defendants filed it recorded it, and refuses to remove it.

4 37. As a result of defendants unlawful conduct, DE EDWARDS has suffered
5 ruination of her credit rating due to the multiple filing of fraudulent lien which depressed her
6 FICO scores, making it more difficult for her to secure a loan at a reasonable interest rate, has
7 suffered tremendous financial losses and economic hardship, loss of business property, the
8 potential loss of her corporation and her home, and damage to her business good will and
9 business reputation.

10 WHEREFORE, Plaintiff prays for Judgment against defendants, and each of them, as
11 hereinafter set forth.

12 COUNT III (VIOLATION OF DUE PROCESS)
13 UNLAWFUL TAX COLLECTION ACTIVITY - VIOLATION OF 26 USC 7433

14 Plaintiffs, collectively, repeat and reallege Paragraphs 1-37 inclusive, in their entirety as if
15 fully stated herein.

16 38. After the defendants persuaded counsel for THE CORPORATION not to seek
17 legal action and to dismiss the complaint, defendant SMITH began collection activity against DE
18 EDWARDS, and in going about his collection activities, did the following things amongst
19 others, in violation of the due process owed Plaintiffs:

20 a. Imposing continuous levies the corporate assets 100%, even though SMITH knew
21 that THE CORPORATION had paid all of its tax liabilities. The unlawful levies
22 is causing severe economic hardship to THE CORPORATION and the taxpayer.
23 THE CORPORATION cannot pay its operational expenses nor the employers'
24 taxes becoming due. Consequently, THE CORPORATION is incurring additional
25 tax liabilities, interest and penalties. THE CORPORATION also cannot pay the
26 taxpayer her wages for work she performed for the corporation. Consequently she
27 has experienced severe economic hardship and cannot pay her living expense or

1 her portion of the mortgage, causing the family home to be in danger of
2 foreclosure.

3 b. Submitting false and fraudulent statements under color of authority as a Revenue
4 Agent of the United States, by:

5 i. submitted 1040 lien for year 1993, to the taxpayers lender, even though the lien
6 had already been paid. This action, together with the conduct described below,
7 sabotaged the loan, causing the lender to withdraw. This loan was being made to
8 payoff or reduce alleged personal income tax liabilities that were pending.

9 Attached hereto as Exhibit "E" are true and correct copies of the check, dated July
10 13, 2006, in the amount of \$64,052.85, payable to the IRS for tax liability on
11 alleged personal income taxes for taxable years 1992 and 1993, in the amount of
12 12,841.38 and \$11,092.08, respectively, plus interest and penalties, and copy of
13 Notice of Federal Tax Liens for personal income tax for taxable year 1993,
14 recorded February 5, 2007, and for taxable year 1993. This lien is recorded again,
15 for the same amount of \$11,092.08, that had already been paid..

16 c. Creating and submitted a Notice of Federal Tax Lien for alleged personal income
17 tax for taxable year 1998 in the amount of \$117421.25, to fraudulently increase
18 DE EDWARDS personal income tax liability, even though he knew that the 1998
19 personal tax return had been timely file, with a tax liability of \$10,246.00.

20 Attached hereto as Exhibit "F" are true and correct copies of the Notice of Lien
21 and the 1040 return for 1998.

22 d. Creating and submitting two Notices of Federal Tax for alleged personal income
23 tax for taxable year 1999, to fraudulently increase DE EDWARDS personal
24 income tax liability, even though SMITH knew that the 1999 personal income tax
25 had been timely filed, with a tax liability of \$0.00. Attached hereto as Exhibit "B"
26 is a true and correct copy of the personal income tax return for taxable year 1999.

1 e. Filing multiple Notices of Federal Tax Lien in violation of the three-year, six-year
2 and ten-year statutes of limitation. Attached hereto as Exhibit "G" are true and
3 correct copies of statutorily barred filings of Notice of Federal Tax Lien. This
4 exhibit consist of pages G1 through G7.

5 f. Submitting multiply levies on 100% of THE CORPORATION's account
6 receivable, knowing that all levies inclusive of interest and penalties had been
7 paid and that the amounts in the levy statement were false, and knowing that the
8 Office of Appeals of the IRS had not yet released the accounting report, to show
9 the payments and application of THE CORPORATION's funds. Attached hereto
10 as Exhibit "H" is a true and correct copies a the levy. Other levies identical to this
11 levy was sent out to 100% of THE CORPORATION's debtors.

12 g. Failing to account for, apply or refund, the 32,162.66 in payments made by THE
13 CORPORATION that were unresolved as of July 1, 2005. Attached hereto as
14 Exhibit "I" is a true anc correct copy of IRS Form 2747, showing the unresolved
15 corporate payments.

16 39. Defendant SMITH used the vast statutory powers of the IRS to engaged in
17 these retaliatory, unlawful activities as described heretofore to intimidate, harass, and cajole DE
18 EDWARDS from pursuing the refund on behalf of THE CORPORATION, and to further assure
19 that the financial destruction of DE EDWARDS is complete, defendant SMITH prepared and
20 submitted to his superiors, his recommendation for foreclosure of DE EDWARDS' home, for the
21 alleged reason that DE EDWARDS refused or cannot pay the personal income tax liability she
22 now owes the IRS, even though he knew that the purported tax liability is based upon false and
23 fraudulent statements, submitted under color of authority as genuine tax liens and levies.

24 40. Defendant SMITH also knew that THE CORPORATION had overpaid its
25 employers' tax liability, which was \$189,101.50 for the entire life of the corporation, and that the
26 IRS had received payments from THE CORPORATION's debtor totaling \$352,226.30, for

1 which the IRS had promised a report, detailing the allocation of the payments, but which was
2 never provided by the IRS. Attached hereto as Exhibit "J" is a true and correct copy of the 941
3 corporate tax returns and the face sheet, showing the running total of the returns. This exhibit
4 consist of pages J1 through J46.

5 41. At no time prior to submitting his recommendation for foreclosure of DE
6 EDWARDS home, did SMITH meet with either DE EDWARDS or her counsel to inquire or
7 discuss whether DE EDWARDS received any Notices of Deficiency, whether she could pay the
8 alleged tax liability in installments, or whether the alleged tax liabilities were acknowledged as
9 valid.

10 42. When DE EDWARDS tried to refinance her home, to payoff a portion or most of
11 the alleged personal income tax owed, defendant SMITH submitted a payoff demand to escrow
12 that was unsupported by recorded tax liens. When the subordination unit of the IRS requested a
13 breakdown by lien supporting the payoff demand, so that some liens, if recorded, could be
14 subordinated, to allow DE EDWARDS to pay a substantial portion of the income tax allegedly
15 owed, defendant SMITH refused to provide the breakdown, further sabotaging DE EDWARDS'
16 equity loan. Attached hereto as Exhibit "K" is a true and correct copy of the payoff demand
17 submitted by SMITH to DE EDWARDS' lender. This exhibit consist of pages K1 through K3.

18 43. In so acting, defendant SMITH acted unlawfully within the meaning of the
19 Act, Sections 7214(a)(1), 7214(a)(2), and 7214(a)(7), by engaging in willful oppression under
20 color of law, and in violation of due process, by knowingly demanding greater sums than are
21 authorized by law, and by making or signing any fraudulent entry in any book, or making or
22 signing any fraudulent certificate or statement.

23 44. As the President and officer of THE CORPORATION, DE EDWARDS is entitled
24 to receive payments for the services rendered to THE CORPORATION, as wage and salary. The
25 conduct of defendant SMITH as heretofore described deprived DE EDWARDS of her wage and
26 salary, in violation of Sections 6334(a)(9) and 6334(d) of the Act, and in violation of DE
27

EDWARDS' constitutional right to receive compensation for her labor.

45. As a result of defendants unlawful conduct, Plaintiff THE CORPORATION has suffered tremendous financial losses and economic hardship, loss of business property, the potential loss of corporate her home, and damage to her business goodwill and business reputation. Consequently, THE CORPORATION has been unable to pay its operational expenses, inclusive of it's employers' tax liabilities becoming due, and the salary and wages of it's corporate officers.

WHEREFORE, Plaintiffs pray for Judgment against defendants, and each of them, as hereinafter set forth.

COUNT IV
FALSIFICATIONS - VIOLATION OF 18 USC 100

46. Plaintiffs, collectively, repeat and reallege Paragraphs 1-45 inclusive, in their entirety as if fully stated herein.

18 USC §100, states:

“Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both.”

47. In doing the things alleged in paragraphs 38 through 45, above, defendant SMITH, knowingly and willfully falsified, concealed, covered up by trick or scheme, or device, material facts concerning the application of levy payments received on behalf of THE CORPORATION, and the issuance and recording of liens on the property of DE EDWARDS.

48. Further, in doing the things alleged in paragraphs 38 through 45, above, defendant SMITH, knowingly and willfully in concert with other DOE defendants, made false, fictitious or fraudulent statements or representations, or made or used false writings or documents knowing the same to contain false, fictitious or fraudulent statements or entries, to issue and execute levies against THE CORPORATION and to record legally unenforceable liens against the property of

1 DE EDWARDS.

2 49. As a result of defendants unlawful conduct, Plaintiff THE CORPORATION has
3 suffered tremendous financial losses and economic hardship, loss of business property, the
4 potential loss of corporate her home, and damage to her business good will and business
5 reputation. Consequently, THE CORPORATION has been unable to pay its operational
6 expenses, inclusive of it's employers' tax liabilities becoming due, and the salary and wages of
7 it's corporate officers.

8 50. As the President and officer of THE CORPORATION, DE EDWARDS is entitled
9 to receive payments for the services rendered to THE CORPORATION, as wage and salary. The
10 conduct of defendant SMITH as heretofore described deprived DE EDWARDS of her wage and
11 salary, in violation of Sections 6334(a)(9) and 6334(d) of the Act, and in violation of DE
12 EDWARDS' constitutional right to receive compensation for her labor.

13 51. As a result of this defendant's conduct, DE EDWARDS has been and continues to
14 be unable to provide for her basic living expenses, inclusive of paying her share of the mortgage
15 payment on her residence, causing her home to be in danger of foreclosure.

16 WHEREFORE, Plaintiffs pray for Judgment against defendants, and each of them, as
17 hereinafter set forth.

18 COUNT V
19 DISCRIMINATION - VIOLATION OF 42 USC 1981

20 Plaintiff, DE EDWARDS, in her individual capacity, repeats and realleges Paragraphs
21 1-51 inclusive, in their entirety as if fully stated herein.

22 52. Defendant JAKABCIN discriminated against Plaintiff, by treating her
23 differently based on ancestry and race in the management, collection and accounting of levied
24 funds in violation of 42 U.S.C. section 1981. JAKABCIN did so by withholding or not offering
25 DE EDWARDS the same offers and proposals generally offered to other taxpayers to resolve tax
26 issues. Specifically, JAKABCIN never offered DE EDWARDS the opportunity to enter into a
27 complete installment agreement, or an offer & compromise.

53. Defendant's actions were and are intentional, arbitrary and capricious, and without justification.

54. As a result of defendants unlawful conduct, Plaintiff has suffered severe emotional distress, past, present and tremendous financial losses and economic hardship, loss of business property, the potential loss of her home, and damage to her business good will and business reputation.

55. As a further proximate result of defendants' outrageous, malicious, wicked, wanton and reckless conduct, Plaintiff suffered and continues to suffer humiliation, distress, and mental and physical pain and anguish, all to her damage in a sum according to proof.

56. As an additional further result of defendants' conduct, Plaintiff, at her own costs and expense, was force to obtain canceled checks and Explanation of Benefits vouchers on each payments that defendants collected from the health plans, which Plaintiff must account for as earned income. Without an accounting for said income, Plaintiff was unable to timely prepare and file her 1040 taxes for years 2004, 2005 and 2006.

57. In light of defendants' outrageous, malicious, wanton, wicked, reckless, willful, knowing conduct of these defendants, Plaintiffs seek an award of punitive and exemplary damages in an amount according to proof.

WHEREFORE, Plaintiffs pray for Judgment against defendants, and each of them, as hereinafter set forth.

VI. CONVERSION

Plaintiffs, collectively, repeat and reallege Paragraphs 1-57 inclusive, in their entirety as if fully stated herein.

58. Plaintiffs are the owners of, and have a right to possession of, the funds and assets of THE CORPORATION.

59. Defendants, and each of them, wrongfully converted the funds and assets of THE CORPORATION by misappropriating no less than \$105,000.00 of corporate funds by

1 excessively levying on THE CORPORATION's account receivables, beyond the amount of the
2 tax liability owed by THE CORPORATION.

3 60. Defendants conduct as described heretofore in paragraph 58, above, was
4 inconsistent with the property rights of Plaintiffs.

5 61. As a result of defendants unlawful conduct, Plaintiff THE CORPORATION has
6 suffered tremendous financial losses and economic hardship, loss of business property, the
7 potential loss of corporate her home, and damage to her business goodwill and business
8 reputation. Consequently, THE CORPORATION has been unable to pay its operational
9 expenses, inclusive of it's employers' tax liabilities becoming due, and the salary and wages of
10 it's corporate officers.

11 **C. REQUEST FOR JURY TRIAL**

12 Plaintiff requests a trial by jury.

13 **D. PRAYER FOR ACCOUNTING AND RELIEF**

14 WHEREFORE, Plaintiff requests relief as follows:

15 1. For special damages according to proof;

16 2. For general damages to compensate plaintiff for discrimination, distress, pain and
17 suffering, loss of enjoyment of life, and damage to her credit rating in the amount
18 according to proof;

19 3. For an accounting of all funds collected from the health plans by defendants;

20 4. For an injunction prohibiting defendants from levying against THE CORPORATION,
21 and for a return of corporate funds.

22 5. For punitive damages;

23 6. For prejudgment interest on all damages awarded according to statute;

24 7. For reasonable attorney fees according to statute;

25 8. For costs of suit incurred; and

26 9. For such other and further relief as the Court may deem just and proper.

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3 Dated: OCTOBER 11, 2007
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/S/
F. ANTHONY EDWARDS, ESQ.
Attorney for Plaintiff

5 **VERIFICATION**
6

I, Sharon de Edwards, M.D., am a Plaintiff in this action. I have read the facts in
the foregoing Complaint for Damages and know the contents thereof. The same is true
of my knowledge, except as to those matters which are therein stated on information and
belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California, that the
foregoing is true and correct.

12
13 Dated: October 11, 2007
14

/S/
Sharon de Edwards M.D., FACOG
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